

November 16, 2004

A regular meeting of the Redmond City Council was called to order by Mayor Rosemarie Ives at 7:30 p.m. in the Council Chambers. Councilmembers present were: Cole, Marchione, McCormick, Paine, Resha, Robinson, and Vache.

#### INTRODUCTIONS

Debra Churchill, and Sandra Bettencourt, Parks and Recreation Department, introduced new employees Marty Boggs, Jill Smith, and Ken Wong.

Lori Snodgrass, Chair, Redmond Park Board, introduced Park Board Youth Advocate Larissa Jones.

#### PRESENTATION

The Mayor presented Neighborhood Matching Grant Funds to Laurie Jewitt and others representing the Woodford Neighborhood for landscaping around the two neighborhood entrance signs.

#### ITEMS FROM THE AUDIENCE

Bill Aloof, 18024 NE 99 Court, said he understood that it would be permissible to talk to the Council about issues concerning the Perrigo Heights development.

James E. Haney, City Attorney, recommended to the Council that as long as the Perrigo Heights sewer issue is before the Council in a quasi-judicial hearing, other issues related to the Perrigo Heights plat should not be heard until a decision on the sewer issue, to avoid potential conflict with the Appearance of Fairness Doctrine. Following the hearing and reconsideration period, which expires at the close of Unfinished Business at the December 7, 2004 Council meeting, anyone can talk about whatever issues they wish having to do with Perrigo Heights. He added that any Councilmember voting on the prevailing side may make a motion for reconsideration regarding the steep slope sewer alignment, and anyone from the general public may make a request for reconsideration to the Council in writing.

Marsha Martin, Foster Pepper Shefelman, attorney representing CamWest, concurred with the City Attorney's recommendation, and stated her objection to the Council taking testimony on other issues related to Perrigo Heights until it makes a decision on the sewer alignment.

Bob Yoder, 10019 169 Avenue NE, speaking concerning Perrigo Heights, expressed concern about the removal of Landmark Trees and trees that provide habitat for wildlife.

Celine McKeon, 15127 NE 24 Street, Number 389, was apprehensive about the Development Review Major Projects Report dated September 20, 2004 that includes a list of twenty projects with a total of around four hundred and fifty new housing units, which are currently under review.

Julia Brand, 17028 NE 100 Street, thanked the Councilmembers who visited the woodland in the Perrigo Heights neighborhood.

#### CONSENT AGENDA

Motion by Ms. McCormick, second by Mr. Cole, to approve the following items of the Consent Agenda:

- (1) approve the minutes of the special meeting of November 6, 2004, pulling the October 19, 2004 minutes, which will be ready for approval at the December 7, 2004 regular meeting

- (2) approve the following payroll/direct deposit and claims checks:

##### PAYROLL/DIRECT DEPOSIT CHECKS:

#159699 through 159863; and  
#129688 through 130855     \$2,319,022.55

##### CLAIMS CHECKS:

#300192 through 300974     \$5,414,192.29

- (3) approve the King County Emergency Medical Services "Basic Life Support Service Contract for the Year 2005", and authorize the Mayor to sign the contract
- (4) approve an agreement between the City of Redmond and eCityGovAlliance regarding the city's participation in the regional economic development web browser
- (6) approve an easement document conveying to Puget Sound Energy, Inc. the necessary access and property rights to install, maintain, and upgrade underground electric service across the City of Redmond's Juel Park property; more specifically, King County Tax Parcel 312606-9002;

and authorize the Mayor to sign the easement

- (7) approve a consultant agreement with Lane and Associates, Inc. to provide on-call real estate services, and authorize the Mayor to sign the agreement
- (8) approve Supplemental Agreement No. 2 with Hewitt Architects, Inc. for design services for the Redmond Municipal Campus Central Park Master Plan, Project No. 95-CI-77, in an amount not to exceed \$9,896 including contingencies; and authorize the Mayor to sign the agreement
- (9) confirm the appointment of Jeff Hart to the Lodging Tax Advisory Committee
- (10) authorize the Mayor to sign the 2005 Mail Services Agreement with Postal Express, which represents a one-year extension
- (11) approve Resolution No. 1196, resolving to adjust the boundary line between the City of Redmond and the City of Bellevue pursuant to RCW 35.13.340, et seq., a portion of Lot 232505-9061 located on the southern edge of the Microsoft Campus immediately north of NE 28 Street, which was presented and read
- (12) adopt Ordinance No. 2231, making adjustments to city budgets, amending Ordinance Nos. 2144, 2165, 2169, 2178, 2184, 2197, and 2205, which was presented and read
- (13) adopt Ordinance No. 2232, adopting the Hearing Examiner's October 11, 2004 recommendation to approve with conditions the Woodrun Townhomes Planned Residential Development (File L030395), and establishing an effective date, which was presented and read.

Upon a poll of the Council, Cole, Marchione, McCormick, Paine, Resha,

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Robinson, and Vache voted aye. Motion carried unanimously (7 - 0).

#### SUBURBAN CITIES ASSOCIATION (SCA) BY-LAWS AND PROPOSED RESTRUCTURING OF SCA

The Mayor, in a memorandum to the Council dated November 16, 2004, recommended approval of the SCA by-laws.

Councilmember McCormick said the thirty-seven cities in SCA are going through another restructuring of the organization. She is supportive of SCA, but was going to vote no because of the following concerns:

- Issue Policy Board: Proposed that each city select one member to be part of the board, which could lead to one of the organizations not being represented at all at the table. The SCA needs to determine how the cities collectively feel before a vote is taken.
- If alternates are allowed, members could find it easy not to attend.

The Mayor said she and Councilmember McCormick have been steadfast in their support of SCA. It is less than perfect, and some of the issues Councilmember McCormick raises are good ones, but this is an evolving organization. The Mayor explained that the recommendations came out of a two-day retreat in which two-thirds or more of member cities participated. One of the issues at the forefront is what it costs to belong to SCA, she noted. The connection between the regional committees, the policy group and the board has not been decided. Even though there is some apprehension, she continued, what is most important is that every suburban city is involved, because SCA represents one million people. She concluded tomorrow's SCA meeting is a perfect opportunity to raise these concerns; Redmond should express support for the organization, even though the evolving organization has had its challenges.

Nina Rivkin, Senior Policy Analyst, responded to Councilmembers' questions.

Motion by Mr. Cole, second by Mr. Resha, to approve by-laws for Suburban Cities Association (SCA), and authorize the City of Redmond delegate to vote to approve by-laws at the SCA annual meeting. Motion carried (6 - 1) with McCormick voting nay.

#### PUBLIC HEARING - 2005-2006 BUDGET AND CAPITAL IMPROVEMENT PROGRAM

The Mayor opened the public hearing at 8:25 p.m.

Holly Plackett, 7524 137 Avenue NE, submitted a written copy of her testimony and summarized her suggestions on the 2005-2006 budget:

- Policy change to reduce reserves from ten percent to eight and a half percent
- Delay taking \$350,000 out of the General Fund for the new City Hall until the 2007-2008 budget
- If the above suggestions are followed, the city could set aside \$200,000 each budget cycle for affordable housing in addition to the allocation for A Regional Coalition for Housing (ARCH)
- She encouraged the Park Board to put forth a park bond next year
- Allocate monies from the 24 percent business head tax increase into specific transportation projects rather than into the General Fund; allow the Business Tax/Transportation Improvements Advisory Committee (BTIT) to go through their process in recommending the use of those funds, and that a portion of the new fee be used for maintenance and operation of built projects.

Lori Snodgrass, 11416 172 Avenue NE, Chair, Redmond Park Board, reminded the Council there are numerous projects that the Parks and Recreation Department has been unable to bring forward due to inadequate funding. She said the Park Board recognizes the challenges the Council is facing, but is concerned about the level of programming not being met by the budget. She urged the Council to adequately fund park projects, because that is what Redmond citizens deserve.

Linda Hussey, 12323 180 Avenue NE, referring to an email communication the Council received from Terry Lavender about stormwater, said she and her husband own property along Avondale Road, and have plans for their property as part of their retirement. She concluded they are concerned about infrastructure keeping up with the growth that is happening in Redmond.

Mrs. Hussey, as a member of the BTIT Advisory Committee, said she heard three other citizens state that they would not object to having their taxes increased, because they want to maintain the level of service in the community. She noted that since she and her husband have decided to retire here, they, too, hope that Redmond will keep the funds to maintain the level of service in the community at the quality to which the citizens of Redmond are accustomed.

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Hearing no further testimony, the Mayor closed the public hearing at 8:34 p.m.

PUBLIC HEARING - 2005-2006 HUMAN SERVICES FUNDING ADVISORY  
COMMITTEE RECOMMENDED ALLOCATIONS

The Mayor, in a memorandum to the Council dated November 16, 2004, recommended approval of the Human Services Funding Advisory Committee recommendations for the allocation of 2005 and 2006 General Fund dollars to support proposed human services programs. The Mayor opened the public hearing at 8:35 p.m.

Joleen Eggers, 15939 NE 55 Way, Eastside Domestic Violence Program, expressed concern at how the loss of \$10,000 in funding due to funding cuts would affect support services for women and families in Redmond.

Beverly Jacobson, 925 116 Avenue NE, Number 211, Bellevue 98004, Children's Response Center, a program of Harborview Medical Center located on the Overlake Hospital campus, thanked the Council for granting the full amount of their request for funding.

Linda Olson, Executive Director, Eastside Domestic Violence (EDV) Program, thanked the Council for the support EDV has always received from Redmond.

Hearing no further testimony, the Mayor closed the public hearing at 8:46 p.m.

Colleen Kelly, Human Services Planner, described the process the Human Services Funding Advisory Committee went through to arrive at the recommendations for funding that are before the Council tonight.

Motion by Mr. Paine, second by Mr. Vache, to approve the recommendations of the Human Services Funding Advisory Committee to allocate 2005 and 2006 General Fund dollars in support of the proposed human services programs. Motion carried unanimously (7 - 0).

REPORTS

Staff Report - 2004 Development Services User Fee Update

Malisa Files, Senior Financial Analyst, in a memorandum to the Council dated November 16, 2004, provided an overview of the Development Services User Fee Study, which is evaluating user fees associated with processing private development.

PUBLIC HEARINGS (continued)

PUBLIC HEARING - PERRIGO HEIGHTS SENSITIVE AREAS EXCEPTION FOR  
SEWER THROUGH STEEP SLOPES (continued from the October 19, 2004  
City Council meeting)

The Mayor opened the public hearing at 8:55 p.m.

James E. Haney, City Attorney, stated that Councilmember Vache had viewed the videotape of the site visit on November 6, 2004, which he was unable to attend. In addition, he reminded the Council that it is part of their rules that Councilmembers are to state their impressions of the site visit at this meeting, and Mr. Aloof might wish to respond to any comments.

None of the Councilmembers wished to state their impressions.

Bob Aloof, 18024 NE 99 Court, representing the neighbors opposed to the exception, presented their case as follows as to why the City should reject all of the methods proposed for removing sewage from the area:

- Risks of steep slope sewer alignment
  - The Class IV slope has an average grade of over forty percent
  - According to report from Triad Associates, the elevation drop is one hundred ten feet, combined with sandy soil
  - No test pits have been dug on the slope since 1997, before the alignment was contemplated
  - Additional slippage could occur because of the type of soils
  - The soil will be a source of destabilizing seepage that could lead to a landslide and cause environmental damage
  - The only reason the alignment is being considered is because of a loophole in the Redmond Community Development Guide
  - Approval of the sewer alignment could prevent the developer from building on lots 25 and 26.
- Risks of gravity sewer involve the possibility of Perrigo Springs degradation because of potential contamination of the creek.
- Risks of pump station
  - Raw sewage would be collected in pressurized pumps below ground
  - Significant amount of above-ground facilities
  - If the lift station on a sloped site stops functioning, residents could have sewage backup into their homes

- o Potential contamination of Perrigo Creek
- o Odors and noise.
- Summary
  - o Above risks, degradation of slope and potential for future landslides
  - o Improve important sensitive areas by preserving features that provide for clean water, wildlife, and ecology
  - o The "loophole" in the Redmond Community Development Guide does not say the exception must be granted
  - o There appears to have been a lack of understanding of the Perrigo Heights development by the staff, Mayor, and Council, but now the Council has received dozens of verbal and written comments from residents, and the Council has visited the site
  - o If a housing developer cannot provide sewer that is not consistent with the Redmond Community Development Guide, the development cannot be built
  - o Suggested that the city meet with the developer to try to reach a solution
  - o No one has offered a reason why the Perrigo Heights development is good for the community.

Councilmember Robinson asked was Mr. Haney familiar with the ordinance regarding landslides that provided an exception to the Sensitive Areas Ordinance? Mr. Haney responded the current code section states that development shall be prohibited in Class IV landslide areas except in the construction of streets and/or utilities identified in the Comprehensive Plan, a capital facilities plan, or a utility facility plan.

Mr. Haney stated he understood that the General Sewer Plan was adopted in August of 1997, not October or November as stated by Mr. Aloof. Bob Franklin, Utility Engineering Manager, confirmed the General Sewer Plan was adopted on August 19, 1997.

Judd Black, Development Review Manager, gave a history on the adoption of the ordinance allowing for exceptions in Class IV landslide areas.

John Harkness, 9720 NE 120 Place, Kirkland, thanked the Council for spending the time to visit the site.

Kurt Merriman, Associated Earth Sciences, 911 Fifth Avenue, Kirkland 98033, addressed a comment from Mr. Aloof and misrepresentations in a letter from Susan Wilkins as follows:

- The soil on the site consists of glacial till, commonly found in the Puget Sound area



- The test pits were sufficient to assess the site; it is unlikely there is a dramatic change between the top and bottom of the slope, and additional disturbance would not be worth it. The dense nature of the soils, the short sewer line, the knowledge of the slope, did not warrant additional disturbance
- The ADSI report of October 15 says the slope is comprised of dense soils, and the top can become loose because of the weathering process. The bending of trees is characteristic of advanced outwash soil deposits and Alders bend toward the light

Michael Matheson, Civil Engineer, principal at Triad and Associates, 11814 NE 115 Street, Kirkland 98034, said it is clear that the steep sewer slope alternative is the best approach. All stormwater drains to Perrigo Creek. State law mandates that the sewer follow the natural location, and this alternative complies with this law.

Marsha Martin, Foster Pepper Shefelman, 1111 Third Avenue Seattle 98101, responded to Councilmember Robinson's question regarding the ordinance and referring to her letter of October 6, 2004.

- The ordinance does not provide a loophole; it was necessary to implement growth targets mandated under the Growth Management Act. All criteria set out in the ordinance have been met; therefore, the exception should be granted. It is the best alternative from an engineering and geologic perspective, and according to the General Sewer Plan adopted in 1997 by the Council, it is the preferred alignment
- The stream alignment has significant environmental impacts
- Lift station would be difficult and costly to construct and could cause potential environmental impacts
- The steep slope sewer alignment can be safely constructed. The city hired a peer review expert consultant who is in complete agreement with this analysis. All construction impacts will be mitigated because gravity systems are the safest over time.

Ms. Martin asked the Council to grant the exception.

RECESS

The Mayor declared a recess at 9:30 p.m. The meeting reconvened at 9:45 p.m.

PUBLIC HEARING - PERRIGO HEIGHTS SENSITIVE AREAS EXCEPTION FOR SEWER THROUGH STEEP SLOPES (continued)

Mr. Aloof requested that the Council allow each side an additional minute of testimony and the Council concurred.

Mr. Aloof clarified why he raised the October 1997 date of the General Sewer Plan.

Marsha Martin said if the Council was to give credence to the Growth Management Act, the need for infill development, the General Sewer Plan, and the Comprehensive Plan, the Council needs to take the criteria in the ordinance and apply it.

James E. Haney, City Attorney, responded to the Mayor's question about liability which was asked before the break. He explained the issue of liability for something happening with the sewer line will depend on the circumstances; causation will be a primary issue. For example, he continued, there could be a defect in the pipe (manufacturer), or the method of construction (contractor), or the problem could arise from a failure to operate or maintain the line properly (city). Liability is apportioned based on fault, he concluded.

The Mayor asked what if there is just a slide, and damage is done? Mr. Haney responded sometimes acts of God happen; if everyone has fulfilled their responsibility, no one would be responsible.

Councilmember Resha noted that the Council received considerable comment regarding vegetation. In the landscape plan did CamWest consider mature plants or would it be amenable to providing mature plantings? Ms. Martin responded the developer does not have a landscape plan at this point in the development, but is amenable to working with the city on appropriate vegetation for the slope.

Councilmember Resha asked Mr. Haney was it possible to establish a condition that the developer would be required to work with the city's arborist to look at more mature vegetation for aesthetics as well as establishing a more mature root system? Mr. Haney replied yes, the performance standards are contained in Redmond Community Development Guide 20D.140.250-290.

Councilmember McCormick said when the Council visited the site on November 6, 2004; the proposed route of the sewer was marked with two sets of ribbons. She asked about the number of trees that would be taken out on the appropriate alignment chosen. Mr. Franklin responded for the alignment submitted by the applicant (marked with orange ribbon) 17 significant trees, but no Landmark Trees, would be lost. The city flagged an alternative alignment (marked with blue and pink ribbons), which would eliminate ten trees, one of which would be a Landmark Tree.

Councilmember Cole asked are both alignments consistent with the General Sewer Plan? Mr. Franklin responded either route would meet the criteria of the plan. The drawing the applicant submitted said the alignment would be altered based on the conditions, he added. The alignment would be determined after the expiration of the reconsideration period when staff would meet with the applicant.

Hearing no further testimony, the Mayor closed the public hearing at 10:00 p.m.

Motion by Mr. Robinson, second by Mr. Resha, to move Alternative 2, contained in the Council memorandum, to deny the exception.

Councilmember Robinson said he has voted to approve a lot of growth in Redmond over the years. When Ordinance No. 1955 was adopted, he was concerned that Class IV landslide areas would be removed from the Sensitive Areas Ordinance and concluded that future Councils would be forced to put development in areas that were less than desirable. He noted the case made by CamWest and its consultants has been credible, but the issue has not changed for him since 1997. He concluded slopes are potential hazards and protecting the slopes in Redmond will not result in large areas of undevelopable land.

The motion failed (1 - 6) with Robinson voting aye, and Cole, Marchione, McCormick, Paine, Resha, and Vache voting nay.

Motion by Mr. Cole, second by Mr. Resha, to adopt Ordinance No. 2233, granting a Sensitive Areas Ordinance Exception to allow the installation of a sewer line through a steep slope at Perrigo Heights, provided that the developer work with the city to plant as mature landscaping as is feasible.

Councilmembers Cole, Marchione, McCormick, Paine, Resha, and Vache spoke in favor of the motion as follows:

- Gravity system alternative is the most reliable
- Law, technical information, regulations were followed in decision on how to deal with development on the steep slope
- Staff agrees that this is the right decision
- A lot of Education Hill is built on steep slopes, and there has not been a landslide

- Acknowledged the need for housing in Redmond
- Insufficient data to support the argument that the sewer line was incompatible and posed an unacceptable risk.

Mr. Haney suggested the following language for the condition regarding landscaping and a correction regarding the date of the General Sewer Plan adoption:

- On page two of the ordinance, add the following sentence at the end of the condition suggested by the Technical Committee: "The applicant shall work with city staff in order to ensure that the utility corridor is revegetated with plantings that are as mature as reasonably feasible at the time of planting."
- On page four, Subsection E, delete "January 5, 1998" as the date of the General Sewer Plan was adopted and insert "August 1997".
- On page four, Subsection G, add the following language at the end of that subsection, after the word "line." "In order to ensure that the stability of the slope is maintained and the utility corridor is restored as quickly as possible, revegetation should be done with plantings that are as mature as reasonably feasible at the time of planting."

Ordinance No. 2233, approving the installation of a sewer line across a Class IV Landslide Hazard Area (steep slope) in conjunction with the Perrigo Heights Preliminary Plat, and adopting findings and conclusions, was presented and read.

Upon a poll of the Council, Cole, Marchione, McCormick, Paine, Resha, and Vache voted aye. Motion carried (6 - 1) with Robinson voting nay.

#### OMBUDSMAN REPORT

Councilmember Resha received a significant amount of email regarding Perrigo Heights. He noted the Sound Transit Route 545 issue is scheduled to be acted upon by the Board tomorrow with a compromise that will keep the express service in tact.

Councilmember Vache said a citizen asked about the timing of traffic lights on NE 40 Street and staff responded quickly.

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SECOND HALF 2004 LODGING TAX FUND AWARDS

The Mayor, in a memorandum to the Council dated November 16, 2004, recommended approval of the awards.

Motion by Mr. Robinson, second by Mr. Marchione, to approve the recommendations of the Tourism Promotion Funding Review Committee regarding grant awards for the second round of funding in 2004, totaling \$90,500. Motion carried unanimously (7 - 0).

COMMITTEE REPORTS

Committee Report - Public Safety Committee

Councilmember Robinson reported that the Public Safety Committee met with representatives from the fire fighters' union. Four issues, services reductions, overtime, shifting public education/prevention staff to fire suppression and Fire Station 17, were discussed. He noted that prior to the discussions he had made it clear that the Committee did not want to discuss issues still under negotiation.

ADJOURNMENT

There being no further business to come before the Council, the Mayor declared the meeting adjourned at 10:50 p.m.

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MAYOR

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CITY CLERK